

6032
DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190206

DATE: April 13, 1978

MATTER OF: Broken Lance Enterprises, Inc.

DIGEST:

IFB provided spaces to insert prices for extended price, unit price and subunit price. Although award was based only on evaluation of extended and unit price, subunit price may not be ignored, since it cannot be determined from bid which price is correct.

Broken Lance Enterprises, Inc. (Broken Lance) protests against award of a contract under solicitation No. DAKF4477-B-0089, issued by the Department of the Army, for custodial services to be performed at Fort Irdiantown Gap, Annville, Pennsylvania.

Broken Lance contends that W. & L. Hughes Service, Inc. (Hughes), the apparent low bidder, made an error in its bid regarding Item No. 4 of the solicitation which caused the bid to be nonresponsive. They argue that if Hughes is allowed to correct its bid, it will be receiving "two bites of the apple," thus giving Hughes an unfair competitive advantage over the other firms.

The solicitation required each bidder to provide a unit price per month, an extended price for a twelve month period, and a price per square foot for each of five custodial services to be performed. Section D of the solicitation provided as follows:

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"Bids will be evaluated on the fixed monthly unit price. (The square footage price is for information purposes only.) Award will be made to the bidder whose bid represents the lowest overall total."

Hughes filled out Item No. 4 as follows:

price per square foot - \$.033
unit price per month - \$111.68
extended 12 month price - \$1,340.16

When the per square foot price of \$.033 is multiplied by the estimated number of square feet per month, a unit price per month of \$363 and a twelve month extended price of \$4,356 is obtained. Using the extended figures based on the per square foot price of \$.033, Broken Lance, rather than Hughes, would have the lowest total bid at \$52,825.19.

When the discrepancy was discovered, the contracting officer contacted Hughes and was informed that Hughes had made a mathematical error in computing the price per square foot, but that the unit price per month was correct. The correct per square foot price was stated to be \$.01015. The Army contends that since the error concerned a price not subject to bid evaluation, and since the unit price per month of \$111.68, which is the only price that is subject to evaluation was verified by Hughes, Hughes should be declared the low bidder at \$50,885.75.

In accepting Hughes' bid the agency appears to have adopted the position that since the subunit price is not to be evaluated in determining the low bidder the general rule which pertains to the correction of bids such as the instant one where extended prices are concerned and where the relative standing of bids is affected does not apply. The general rule in such cases is that where there is an obvious mistake in either the unit or extended price the bid should be disregarded where it cannot be determined from the face of the bid whether the error was in the unit price (subunit price), or extended price. 51 Comp. Gen. 488 (1972).

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Although we are not aware of any cases directly on point our Office has refused to permit the acceptance of a bid with an obvious error in a subunit price even though that subunit price was not a factor in the evaluation of bids. 49 Comp. Gen. 107 (1969); Amos Construction Co., Inc., B-186623, July 22, 1976, 76-2 CPD 70. However in each of these cases it was unclear from the face of the IFB whether the subunit prices would be included in the evaluation.

Although it is clear from the face of the IFB in this case that the subunit price would have no immediate impact on the evaluation of the bid, it is to be used by the Army, as information, in developing its estimates to be employed in negotiating the price of any change orders issued under the contract. Its significance is illustrated by the fact that the space provided for it was on the face of the IFB schedule in line with both the unit and extended prices. It was also included in the abstract of bids. Moreover the inclusion of a subunit price appears to have been treated by the agency as a matter of responsiveness.

Further, in this connection it is important to note that our Office has held that where an apparent error exists in a subunit price the contracting officer is under a duty to verify that price notwithstanding the fact that the subunit price was not a factor in the evaluation of bids. 51 Comp. Gen. 488 supra; 50 Comp. Gen. 151 (1970).

In view of the fact that bidders were required by the IFB to include a subunit price and considering that an apparent error in that price would require verification, the discrepancy between the subunit price and the unit or extended price may not be ignored because one interpretation of Hughes' bid would cause it to be low bidder (unit and extended price are correct) and the other (subunit price is correct) would not.

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In reaching this conclusion we note that available evidence is not sufficient to determine that the lower price bid by Hughes on item four is most logical. In this regard the abstract reveals that of the six bidders, two bid more than .033 as a subunit price for Item 4, while none bid lower than Hughes' alleged corrected figure of \$.01015. Further there is no mathematical error apparent from the face of the bid such as a misplaced decimal or multiplication by a wrong factor.

The agency points out that Hughes, the incumbent contractor on this requirement, bid in the identical manner on the prior procurement. The discrepancy was not discovered and no problems in performance or payment were encountered. We do not believe the fact that an error was made in a prior procurement, without adverse consequences, justifies the perpetuation of that error, once discovered, in a subsequent procurement.

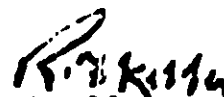
In view of the above we do not believe that Hughes' bid could be corrected so as to cause it to displace the Broken Lance bid. In this regard the agency notes in the report that Broken Lance may not have properly filled out an itemized price breakdown on pages 11 and 12 of the IPB. The agency does not indicate in the report whether it considers the bid of Broken Lance nonresponsive for this reason.

In view of the fact that the matter of responsiveness of Broken Lance's bid was not presented by any of the parties to this protest and not addressed in the record we are referring this matter back to the agency for its determination. If Broken Lance's bid is found to be responsive and Broken Lance is determined to be responsible we recommend that consideration be given to terminating Hughes' contract and awarding the remainder of the requirement to Broken Lance as the low bidder. If Broken Lance is found to be nonresponsive we have no objection to the award to Hughes under its bid as verified because the relative standing of the remaining bids is not affected.

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Protest sustained.

Since this decision contains a recommendation for corrective action, we have furnished a copy to the congressional committees referenced in Section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. 1176 (1970), which requires the submission of written statements by the agency to the Committees on Government Operations and Appropriations concerning the action taken with respect to our recommendation.


Deputy Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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APR 13 1978

The Honorable
The Secretary of the Army

Dear Mr. Secretary:

Enclosed is a copy of our decision of today regarding IFB DAX74477-B-0089 under which Broken Lance Enterprises submitted a protest to this Office.

We call your attention to our recommendation that consideration be given to terminating the existing contract and awarding the remaining portion of the requirement to Broken Lance if its bid is found to be responsive.

Since our decision contains a recommendation for corrective action, we have furnished a copy of it to the congressional committees referenced in section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970), which requires that you submit a written statement to the Committee on Government Operations of the House of Representatives and the Senate Committee on Governmental Affairs not later than 60 days after the date of our decision indicating what action has been taken with respect to our recommendation. The act also requires that you submit in writing to the Committees on Appropriations of the House of Representatives and the Senate a similar statement in connection with the first request for appropriations submitted to the Congress more than 60 days after the date of our decision.

It is requested that you advise us as to what action is taken with regard to this recommendation.

Sincerely yours,

R.F. KELLER

Deputy, Comptroller General
of the United States

Enclosure